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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1992

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PUT-IN-BAY ISLAND TAXING
DISTRICT AUTHORITY

Petitioner,

v.

COLONIAL INC.

Respondent.

PETITIONER'S REPLY IN OPPOSITION TO RESPONDENT'S MOTION FOR AWARD OF DAMAGES AND COSTS

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Petitioner Put-In-Bay Island Taxing District Authority hereby requests this Court to deny Respondent's Motion for Award of Damages and Costs.

In a concurring opinion by Justices Powell and Brennan, in Webb v. Webb, 451 U.S. 493, at 501, it was stated, "...that this court has jurisdiction to review plain error unchallenged in state court when necessary to prevent fundamental unfairness."

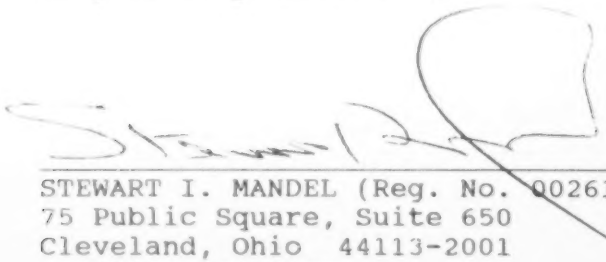
This case, wherein Petitioner seeks a Writ of Certiorari, falls within the ambit of this Court's jurisdiction because the decision of the Ohio Supreme Court was clearly in error and fundamentally unfair for the reasons set forth in the Writ of Certiorari and Reply filed with this Court. In finding the legislation passed by the Ohio Legislature unconstitutional, the Ohio Supreme Court exceeded its judicial authority and violated the separation of powers doctrine.

Petitioner has a basis for its claim with respect to the issue of jurisdiction, and the matter addressed in the Writ filed before this Court has substantive merit.

CONCLUSION

WHEREFORE, for the foregoing reasons, Petitioner prays that Respondent's Motion for Damages and Costs be denied.

Respectfully submitted,



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